

AGENDA ITEM #9
September 12, 2003

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: New CALFED/California Bay-Delta Authority Agency Coordination Team
Memorandum of Understanding
(For Commission Consideration and Possible Action)

BACKGROUND

In March 2002, the Commission voted to sign the CALFED Interim Governance Memorandum of Understanding, allowing the Commission's representative (Executive Director) to sit on the Policy Group and to participate on Management Group. The Commission determined it was important to participate on these CALFED bodies to ensure that Delta land use issues would be identified and addressed in the CALFED implementation process.

The Management Group met twice a month, to review and provide input to the CALFED staff on implementation of the CALFED program by the various agencies. The Group reviewed work plans and budget matters, and made recommendations to the Policy Group. The Management Group was charged by the Policy Group with "approving", or providing comments on certain funding programs. The Management Group does NOT meet in public. The Management Group is not authorized in the new legislation, and will expire in September 2003.

CALFED COMMITTEE REVIEW:

The Commission's CALFED Committee reviewed the new Memorandum of Understanding at its September meeting. The Committee recommended that the Commission authorize the Executive Director to sign the Memorandum of Understanding and continue to participate on the Management Group, and report to the Commission in a quarter as to the value of continuing Commission participation on the ACT .

PROPOSED MEMORANDUM OF UNDERSTANDING

There are many "CALFED agencies" that are **not** members of the new Bay Delta Authority. The agencies recognize a value from continuing to meet, but only to "inform and coordinate" agency activities. The proposed Agency Coordination Team (ACT) will not have any advisory or decision making role. The ACT will not meet in public.

- Attachment C described the proposed Agency Coordination Team.
- All "CALFED agencies" that would like to participate on the ACT must sign the new MOU.
- Its primary purposes are information dissemination and early issue identification on issues arising out of agency participation in the CALFED/ California Bay-Delta Authority program or other agency activities affecting California water issues.

Agencies on the California Bay-Delta Authority

Resources Agency
California Environmental Protection Agency
Department of Food and Agriculture
Department of Water Resources
Department of Fish and Game
Department of Health Services
Department of the Interior
Environmental Protection Agency
Corps of Engineers
National Marine Fisheries Service
Fish and Wildlife Service
Bureau of Reclamation

**Amended and Restated
CALFED Bay-Delta Program
Implementation Memorandum of Understanding**

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This Amended and Restated CALFED Bay-Delta Program Implementation Memorandum of Understanding (Implementation MOU) replaces the Implementation Memorandum of Understanding signed on August 28, 2000. The purpose of this Implementation MOU is to confirm the commitments made in the August 28, 2000, Implementation Memorandum of Understanding and to clarify the roles and responsibilities of the CALFED Agencies in the implementation of the CALFED Bay-Delta Program (CALFED Program) following the creation of the California Bay-Delta Authority.

A. Recitals

1. This MOU recognizes the:

- Critical importance of the Sacramento/San Joaquin River Delta-San Francisco Bay (Bay-Delta) estuary and its tributary watersheds to the natural environment and the economy of California and the nation.
- Multiple and complex resource management issues that need to be addressed to restore and enhance the Bay-Delta estuary.
- Record of Decision on the CALFED Bay-Delta Program adopted on August 28, 2000, (ROD), as the Programmatic plan for the long-term solution to address these complex resource management issues.
- Need for State and Federal agencies to continue to work closely together in partnership with stakeholders and Indian tribes to successfully implement the ROD over 30 years.

2. In 1994, the Framework Agreement was signed between the Governor's Water Policy Council and the Federal Ecosystem Directorate (ClubFed) which set forth the operating principles for developing a long-term solution to the Bay-Delta problems. In December 1994, the State and Federal agencies and stakeholders signed the "Principles for Agreement on Bay-Delta Standards between the State of California and the Federal Government" (the Accord), which established interim measures for both environmental protection and regulatory stability in the Bay-Delta.

3. The State and Federal agencies developed the CALFED Bay-Delta Program in 1995 to develop the long-term solution to the Bay-Delta problems and prepare a Programmatic EIS/EIR. The State and Federal agencies formed the Policy Group (comprised of State and Federal agency leaders) to oversee and direct the preparation of the Programmatic EIS/R and development of the Preferred Program Alternative.

4. The State and Federal CALFED agencies have worked for over five years to develop a Final Programmatic EIS/EIR and Preferred Program Alternative in collaboration with representatives of agricultural, urban, environmental, fishery, business, rural counties, environmental justice, farm labor, Indian tribes, and Delta interests.

5. The State and Federal administrations released *California's Water Future: A Framework*

for Action on June 9, 2000, which sets out actions anticipated to be implemented as part of, or in conjunction with, the Preferred Program Alternative during the first seven years (Stage 1) of the CALFED Program.

6. On July 21, 2000, the lead CALFED Agencies released the Final Programmatic EIS/EIR and Preferred Alternative.

7. On August 28, 2000, the lead CALFED Agencies executed the ROD and certified the Final Programmatic EIS/EIR and Preferred Alternative.

8. On August 28, 2000, most of the CALFED Agencies executed the CALFED Bay-Delta Program Implementation Memorandum of Understanding to establish an interim cooperative interagency mechanism for implementing the CALFED Bay-Delta Program (CALFED Program) as defined in the ROD. Other CALFED Agencies executed that Memorandum of Understanding at subsequent dates. By its terms, that Memorandum of Understanding expires on September 30, 2003, unless terminated or extended by written agreement.

9. On July 2, 2001, the Secretary of the Interior chartered the Bay-Delta Public Advisory Committee (BDPAC), a public advisory committee chartered under the Federal Advisory Committee Act.

10. In 2002, the Agencies adopted the CALFED Bay-Delta Program Management Group Memorandum of Understanding (Management Group MOU) to create and define the roles and responsibilities of the CALFED Management Group.

11. In 2002, the California Legislature passed and the Governor signed SB 1653, 2002 Cal. Stats, Ch. 812, codified at California Water Code Sections 79400, et seq., which created the California Bay-Delta Authority (Authority) effective January 1, 2003.

12. The undersigned recognize that public agency signatories to this MOU have specific statutory and regulatory authority and responsibilities, and that actions of these public agencies must be consistent with applicable procedural and substantive requirements. Nothing in this MOU is intended to, or shall have the effect of, constraining or limiting any public entity in carrying out its statutory responsibilities. Nothing in this MOU constitutes an admission by any party as to the proper interpretation of any provision of law, nor is anything in this MOU intended to, nor shall it have the effect of, waiving or limiting any public entity's rights and remedies under any applicable law.

The undersigned recognize that certain departments, boards, and commissions (Adjudicative Entities) have adjudicative responsibilities with respect to contested regulatory matters that are brought before them. (See California Gov. Code §§ 11400, et seq.) Such adjudicative responsibilities include the requirement that the Adjudicative Entity and its members avoid bias,

prejudice, or interest in the adjudicative matters before them, e.g., they cannot decide the outcome of a matter before completion of any required hearing or equivalent proceeding. Some such Adjudicative Entities exist within the undersigned agencies. This MOU does not in any way require or commit an Adjudicative Entity to participate in proposing a project that will come before it for approval, nor does this MOU require or imply that an Adjudicative Entity will approve a project that requires an adjudicative proceeding. Under this MOU, the role of Adjudicative Entities in connection with matters that may require an adjudicative decision is limited to promptly and diligently processing any applications, petitions, or other requests for approval. Nothing in this MOU commits an Adjudicative Entity to an approval or disapproval of any project subject to the authority of the Adjudicative Entity, nor to a term or condition in any approval of a project by the Adjudicative Entity.

B. Definitions

The following defined terms, when they appear with initial capital letters, shall apply to this MOU.

Adjudicative Entity: a State or Federal department, board, or commission that has adjudicative responsibilities with respect to contested regulatory matters that are brought before it.

Annual Report: the annual assessment and report as mandated in the ROD.

CALFED Bay-Delta Program (CALFED Program): the entire cooperative program of Federal and State agencies described in the ROD, as it may be amended, including eleven Program Elements and hundreds of subsidiary actions that will be implemented over a 30 year period.

CALFED Agencies (Agencies): the State and Federal agencies that sign this MOU, including California Resources Agency (Resources), Department of Fish and Game (DFG), California Department of Water Resources (DWR), Department of Food and Agriculture (DFA), California Environmental Protection Agency (CalEPA), California Department of Conservation (DOC), Delta Protection Commission (DPC), Department of Health Services (DHS), California Bay-Delta Authority (Authority), State Reclamation Board, San Francisco Bay Conservation and Development Commission (BCDC), State Water Resources Control Board (SWRCB), U.S. Department of the Interior (Interior), U.S. Bureau of Reclamation (Reclamation), U.S. Fish & Wildlife Service (USFWS), U.S. Geological Survey (USGS), Bureau of Land Management (BLM), U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (USACE), National Marine Fisheries Service (NMFS), U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), U.S. Forest Service (USFS), and the Western Area Power Administration (WAPA).

California Bay-Delta Authority (Authority): the State entity created by California Water

Code Section 79410.

Category A and B Programs and Funding: Category A includes programs and funding that should be consistent with the CALFED Program goals and objectives and priorities and will be submitted to the Authority for review and recommendations. Category B includes programs and funding that should be coordinated with the CALFED Program and shared with the Authority for review and comment.

Cross-Cut Budget: the compilation of annual CALFED Agency budgets for Category A and B programs.

Implementing Agencies: Those State and Federal agencies named in the California Bay-Delta Authority Act (SB 1653), Water Code section 79440-41, as agencies responsible for implementing one or more of the Program Elements.

Implementation MOU: this MOU between Federal and State agencies defining their roles in the implementation of the CALFED Program.

Program Element(s): the eleven sub-programs of the CALFED Program: ecosystem restoration, watershed, storage, conveyance, water transfers, water use efficiency, water quality, water supply reliability, science, environmental water account, and levee system integrity.

Program Coordinator: The Authority staff member responsible for coordination and oversight of one or more of the Program Elements.

C. Implementation Principles

1. Program Integration and Balance: The Agencies will implement the CALFED Program in an integrated and balanced manner and will ensure that each Program Element shows continuous improvement.

2. Consistency and Support for CALFED Program: The Agencies will support the implementation of the CALFED Program as described in the ROD, as amended pursuant to the terms of the ROD. The Agencies will support and implement actions consistent with the ROD. An Adjudicative Entity that is a CALFED Agency will conduct an independent review of any CALFED action or proposal that requires the approval of the adjudicative entity under State and Federal law to the extent that such actions are consistent with the entity's authorities and responsibilities.

3. Agency Coordination: The Agencies will coordinate their activities related to the CALFED Program.

4. Financing: The Agencies will seek the necessary funding and resources to support the implementation of the CALFED Program as described in the ROD, consistent with their existing authorities. Funding will be subject to State and Federal legislative action and specific agency authority.

5. Public Involvement: The Agencies will encourage public knowledge of, and active and strong involvement in, the implementation of the CALFED Program.

6. Tribal Involvement: The Agencies will encourage tribal knowledge of, and active and strong involvement in, the implementation and evaluation of the CALFED Program. Federal agencies participating in the CALFED Bay-Delta Program will consult with appropriate tribes before making decisions on matters potentially affecting tribal interests.

7. Local Implementation: The Agencies will promote active and strong involvement of local communities during implementation.

8. Environmental Justice: Consistent with the President's Executive Order 12898 and California Public Resources Code section 72000, the Agencies will seek fair treatment of people of all races, cultures, and incomes. CALFED programs, policies and actions shall not cause any segment of the population to bear a disproportionately high or adverse health, environmental, social, or economic impact. CALFED Agencies agree to be responsible for ensuring this policy is carried out across all Program Elements through the development of environmental justice goals and objectives.

9. Science-Based Adaptive Management Approach: The CALFED Program will be implemented using a science-based adaptive management approach. This approach will rely on constant monitoring and evaluation of actions in all Program Elements. The CALFED Science Program will provide information to guide management decisions for CALFED Program actions, and CALFED related actions.

10. Single Blueprint for Ecosystem Restoration: The Agencies will develop a single blueprint for implementing the Ecosystem Restoration Program. The blueprint is a unified and cooperative approach made up of integrated science, a shared vision for a restored ecosystem, and a management framework which defines the process for implementing the blueprint.

D. CALFED Governance and Implementation Procedures

1. California Bay-Delta Authority

The Authority, in coordination with the other Agencies, will carry out the obligations assigned to it under California Water Code sections 79400, et seq.

No Authority actions will supplant any action or decision required by law to be performed by another CALFED Agency.

2. Program Element Implementation

To effectively implement the CALFED Program, the implementation of each Program Element has been assigned to one or more CALFED Agencies or the Authority in California Water Code section 79441. Agencies assigned the responsibility for implementation of Program Elements agree to coordinate with the Authority and other CALFED agencies to ensure consistency with the CALFED Program.

3. Planning, Budget, and Implementation Procedures

Program and Funding Categories: The Authority may review programs and funding that have been identified as either Category A or B in Attachment A, Table 1, as amended from time to time. The Authority may recommend changes in Category A or B programs or funding to the implementing agency. Attachment A, Table 1 includes an initial list of existing Category A and B programs and funding. This Table shall be reviewed and revised as necessary by the Authority. The addition of programs and funding to Category A or Category B will only be allowed upon concurrence by the agency with implementing or funding authority. Any revisions of this Table do not require modification of this MOU pursuant to Section J.

- ***Category A -- Consistent Programs and Funding:*** Includes those programs and funds that should be managed and implemented consistent with the CALFED objectives. Category A includes both long-term existing programs that should be managed consistent with CALFED objectives, and more recent funding and programs specifically targeted at CALFED objectives and actions.
- ***Category B -- Related Programs and Funding:*** Includes those programs and funds that have related and overlapping program objectives and whose geographic area of focus overlaps with the CALFED solution area.

Category A Procedures: For Category A programs and funds:

- a. CALFED Agencies responsible for Program Management as an Implementing Agency shall coordinate with the Authority and other CALFED Agencies to develop program priorities, multi-year program plans, proposed budgets, and significant program products (such as regulations, grant or loan solicitations, environmental documentation, project selection).
- b. When the Authority is assigned responsibility for Program Management, it shall coordinate with other CALFED Agencies to develop program priorities, multi-year program plans, proposed budgets, and significant program products (such as regulations, grant or loan solicitations, environmental documentation, and project selection).
- c. CALFED Agencies shall then submit multi-year program and expenditure plans to the Authority for review, recommendations, and statement of consistency with the CALFED Program objectives.
- d. Final approvals will remain with those Agencies with the program and funding authority.

Category B Procedures: CALFED Agencies with authority for Category B programs and funding agree to:

- Work with the Authority and other CALFED Agencies in the development of Category B programs and projects.
- Share annual plan for programs and projects located in the CALFED solution area with the Authority and other CALFED Agencies to identify opportunities for coordinating resources and funding to increase efficiency, and to avoid duplication.

Cross-Cut Budget Procedures: CALFED Agencies agree to participate, to the extent authorized by law, in the preparation of annual CALFED Cross-Cut Budgets. CALFED Agencies agree to provide funding information, to the extent authorized by law, to the Authority in a timely fashion for all programs and activities related to the CALFED Program. The Cross-Cut Budget will at a minimum include all Category A and B programs and funding.

It is anticipated that agencies with Category A and Category B programs and funding will develop program element-specific agreements to more clearly articulate the coordination process for those program elements.

4. Public and Local Involvement

The CALFED Agencies remain committed to encouraging the public to work with the Authority, State and Federal Implementing Agencies, other CALFED Agencies and scientific and technical advisors in the design, implementation and evaluation of the CALFED Program.

5. Water Project Operations

The CALFED Agencies reaffirm their support of the Water Operations Management Team (WOMT) and Operations Group (Ops Group) processes described in *Attachment B* as the mechanism for interagency cooperation and issue identification and resolution for issues arising out of water project operations. The CALFED Agencies commit to coordinate the activities of the WOMT and Ops Group.

6. Science

The purpose of the CALFED Science Program is: (1) to provide a comprehensive framework for developing new information and scientific interpretations necessary to implement, monitor, and evaluate the performance of the CALFED Program (including all Program Elements); and (2) to communicate to managers and the public the state of knowledge of issues critical to achieving CALFED goals. The scope of the CALFED Science Program will include scientific information necessary for the CALFED Program and for State and Federal water operations.

The Authority and other CALFED Agencies agree to coordinate in the implementation of the CALFED Science Program.

7. CALFED Agency Coordination Team

The Agencies hereby agree to terminate the CALFED Policy Group created in the initial Implementation MOU dated August 28, 2000, and the CALFED Management Group created in the Management Group MOU. The Agencies agree to form and participate in the CALFED Agency Coordination Team as described in *Attachment C*.

E. Annual Report

The Authority will submit an Annual Report to the Governor, the Secretary of the Interior, Congress, the California Legislature, and other interested parties that describes the status of implementation of the CALFED Program. Prior to November 15 of each year, the Authority, in consultation with other interested persons and the other CALFED Agencies, will review the progress in meeting the implementation schedule established in the final programmatic EIS/EIR and ROD, and the progress in meeting CALFED Program objectives and targets.

The Annual Report will be submitted by December 15. The report will include a status report on the actions taken to meet CALFED objectives, as described in the ROD.

F. Cost Crediting

State and Federal agencies and stakeholders have contributed, and will continue to contribute, funds to support the CALFED Program. Crediting for costs incurred for CALFED programs or actions will be addressed as cost allocations are determined for specific programs or actions.

G. Ecosystem Cost-sharing Agreement

The Department of the Interior and the Resources Agency agree that the *Agreement for Cost Sharing Related to Restoration Under Proposition 204 and the Bay-Delta Act*, dated January 28, 1998 (["Ecosystem Cost Sharing Agreement"]), shall remain in effect unless modified or terminated by the parties thereto under the terms of that Agreement. The Department of the Interior and the Resources Agency confirm that the Ecosystem Cost Sharing Agreement satisfies the requirements of Proposition 204, as codified in Water Code section 78684.10, which requires a cost-sharing agreement between the State of California and the United States prior to the expenditure of the \$390 million appropriated for ecosystem restoration. Pursuant to paragraph II(D)(1)(a) of the Ecosystem Cost Sharing Agreement, the Secretary of the Interior and the Secretary for Resources approve the inclusion of the sources of funding listed under paragraph II(B)(2) of that agreement.

H. Contingent on Appropriation of Funds and Future Actions

The expenditure or advance of any money or the performance of any obligation of the United States under this MOU shall be contingent upon appropriation or allotment of funds in accordance with 31 USC 1341 (Anti-Deficiency Act). No liability shall accrue to the United States for failure to perform any obligation under this MOU in the event that funds are not appropriated or allotted.

The project schedules described in this document and the ROD depend upon certain assumptions about State and Federal budgets, optimized construction schedules, willing sellers, and other contingencies. These assumptions may change as the CALFED Program progresses and appropriate revisions to the CALFED Program may be necessary. Consistent with Federal law, nothing in this document or the ROD constrains the discretion of the President or his successors to make whatever budgetary or legislative proposals he or his successors deem appropriate or desirable.

The commitments and obligations under this MOU of the State of California are subject to the availability of appropriated funds. No liability shall accrue to the State of California for failure to perform any obligation under this MOU in the event that funds are not appropriated.

I. Legal Consistency

All provisions of this MOU are intended and shall be interpreted to be consistent with all applicable provisions of State and Federal law.

The program or activities conducted by or funded by any federal agency under this agreement will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and American's With Disabilities Act of 1990. They will also be in accordance with applicable federal regulations, which provide that no person in the United States shall on the grounds of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

The parties recognize that this MOU is not a contract. This MOU does not delegate to any agency, or the collective group of agencies, the authority to: (1) control another agency's final decision on a project; (2) modify or halt an agency's project; or (3) compromise an agency's discretion to pursue projects according to their individual agency legal authority. This MOU facilitates cooperation and advice among the agencies; it shall not be interpreted to form a partnership, joint venture, or contract that requires federal agencies to analyze state projects and programs under the National Environmental Policy Act.

J. Modification

This MOU can be modified if agreed to in writing by all parties hereto.

K. Term of the MOU

This MOU shall become effective as to an agency upon the date of its execution by that agency.

L. Signature in Counterparts

This MOU may be executed in counterparts.

M. Additional Signatories

Other State or Federal agencies may execute this Implementation MOU. Upon the execution of this Implementation MOU by additional agencies, those agencies shall become a party to this

MOU and no amendment executed by the other signatories is required for the agencies to become a party.

N. Termination/Withdrawal

Any signatory agency may withdraw from this Implementation MOU by providing written notice to all of the undersigned parties explaining the reasons for the proposed withdrawal. The withdrawal becomes effective 60 days after the date of such notice, at which time the Implementation MOU will have no further force and effect as to that agency. Withdrawal by any one agency shall not invalidate this Implementation MOU as to any agency not tendering its own independent notice of withdrawal.

ATTACHMENT C

Agency Coordination Team

This attachment to the Amended and Restated CALFED Bay-Delta Program Implementation Memorandum of Understanding (MOU) establishes the Agency Coordination Team (ACT) as the staff level coordination mechanism for CALFED Agencies working to implement the CALFED Bay Delta Program.

Background

On September 23, 2002, the Governor signed SB 1653, which establishes the California Bay-Delta Authority (Authority), effective January 1, 2003, and assigns it the broad task of overseeing the implementation of the CALFED Bay Delta Program. Most of the tasks given to the Authority in SB 1653 have previously been performed by the CALFED Policy Group and CALFED Management Group under previous memoranda of understanding.

In recognition of the creation of the Authority, the CALFED Agencies are, in the MOU, abolishing the CALFED Policy Group and the CALFED Management Group. The CALFED Agencies intend to rely to the greatest extent possible on the Authority as the focal point for CALFED Bay Delta Program coordination. At the same time, the CALFED Agencies believe that a staff-level agency coordination mechanism is essential to maintain the interagency cooperation effort on California water issues that began well before the creation of the CALFED Bay Delta Program in 1995.

Accordingly, the CALFED Agencies are establishing the ACT as the ongoing agency coordination body. The ACT is not a decisionmaking body, nor is it advisory to the Authority. Its primary purposes, as outlined below, are information dissemination and early issue identification on issues arising out of agency participation in the CALFED Bay Delta Program or out of other agency activities affecting California water issues.

The Signatories to this MOU anticipate that many transition issues will need to be identified and resolved in the near future, and understand that the ACT may

be need to be reformulated or supplanted by some other agency coordination mechanism at some future date.

Definitions

The definitions in the MOU are applicable to this Attachment C, unless explicitly provided otherwise.

Membership

- a. Each CALFED Agency executing the MOU shall be a member of the ACT.
- b. Each CALFED Agency shall name a representative and an alternate for participation in ACT meetings. In the absence of both the designated representative and the alternate for an Agency, an Agency may name a substitute representative for a meeting by notifying the State or Federal Coordinator.
- c. State and Federal Coordinators. The State CALFED Agencies shall designate a State Coordinator for the ACT. The Federal CALFED Agencies shall designate a Federal Coordinator for the ACT. If unable to attend a meeting, the State or Federal Coordinator, as the case may be, will name a substitute by notifying the other coordinator.
- d. New Members. Additional State or Federal agencies that execute the MOU become members of the ACT.

Duties of the ACT

The ACT is intended to serve as a staff-level coordination mechanism for the CALFED Agencies. It is not intended to be a decision-making body, nor does it provide any formal comment or recommendations to the Authority, the Governor, or the Secretary of the Interior. The ACT is responsible for:

- a. Disseminating information among and between the ACT agencies about the implementation of the CALFED Bay Delta Program and other agency activities that may be of interest the ACT members. This includes information from the Authority as well as from the other Implementing Agencies that have assumed responsibility for implementing some aspect of the CALFED Bay Delta Program.
- b. Identifying interagency issues that arise during the course of Agency implementation of their respective programs, including Agency implementation of the CALFED Bay Delta

Program. Agencies are encouraged to identify and resolve interagency issues at the earliest time and at the lowest level possible. If interagency issues cannot be resolved, the ACT should attempt to identify an adequate process for elevating issues to the appropriate decisionmakers.

ACT Meetings

- a. The ACT will meet as necessary to complete its business, as determined jointly by the State and Federal ACT Coordinators.
- b. The State and Federal ACT Coordinators will develop an agenda for each meeting. Any ACT agency can request that items be added to the agenda by contacting the State or Federal ACT Coordinators. Each ACT agency will receive advance notification of ACT meetings in writing or by electronic mail. The notice will be sent to the designated agency representative and alternate of each agency.
- c. The meetings will be chaired by the State and Federal ACT Coordinators, alternating each meeting.
- d. The procedures for the conduct of ACT meetings can modified from time to time if agreed to by the ACT agencies.

Legal Consistency

All provisions of this MOU are intended and shall be interpreted to be consistent with all applicable provisions of State and Federal law.

No Effect on Agency Authority

No State or federal CALFED agency has delegated its authority or discretion to any other agency, to the ACT, or to the CALFED Agencies collectively. The ACT cannot require an agency to take any particular action. The ACT will assist in resolving disputes between agencies, and it facilitates coordination and planning among the agencies. The agencies retain their discretion to make final decisions to implement elements of the long term plan, according to their legal authority.

No waiver of sovereignty

The State agencies' participation in the ACT does not subject the State to federal law or waive its immunity to suit under the federal Constitution. The Federal agencies' participation in the ACT does not subject the Federal government to state law or waive its immunity to suit under the Federal constitution.

Relation to WOMT

The MOU recognizes that the Water Operations Management Team (WOMT) was established to coordinate and resolve water project operations issues. The creation of the ACT is not intended to change the functions of the WOMT.